



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE

210 East 5th Avenue
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Minutes for the meeting of Grant County Board of Adjustment.

Members present: Tom Adler Tom Pillatzki Nancy Johnson Richard Hansen Mike Mach Bob Spartz Mark Leddy

Alternates present: Don Weber Jeff McCulloch

Members absent:

Others present: David Lau Roger Solum Allen Amdahl Judy Hunt Mark Mauersberger Kevin Owen Linda Lindgren
Al Robish Vince Meyer Patricia Meyer Amber Christenson Kathy Tyler Wayne Preston Vickie Severson

Agenda for the meeting of Grant County Planning Commission/Board of Adjustment.

Meeting Date: **July 10, 2018** **Meeting Time: 4:00 P.M.** **Court House Basement**

1. **Call Meeting of the Board of Adjustment to Order** at 4 pm by Chair Johnson
2. Items to be added to agenda by Board Members or Staff- none
3. Invitation for citizens to schedule time on the Board of Adjustment Agenda for an item not listed. (5 minutes maximum time) Kevin Owen indicated he would like to address the board.
4. Approval of Agenda Motion by Mach second by Spartz carries 7-0.
5. Approval of Minutes
 - a. May 14, 2018 Motion by Mach second by Mach second by Hansen carries 7-0.
6. Conditional use permit request from Ottertail Power Company and Montana-Dakota Utilities Co. on the following legal description: NE ¼ NE ¼ Section 14 Township 120 Range 52 West of the 5th p.m. Grant County, South Dakota.

- A CUP06132018 Pursuant to Section 1101.03: Conditional Uses in the "A" Agricultural Zoning District #14 Public Utility/Service Structure, the applicant is requesting to construct an electrical switching station. Motion to approve the CUP request for discussion by Spartz second by Pillatzki

Wayne Preston, Project Manager from Ottertail presented the permit application and was joined by Vickie Severson, Land Acquisition Agent from Ottertail. The permit is for a 345 K Sub and designed to join the 345 K line being built. There will be no transformers and only 3 breakers to allow for lines to terminate as interconnect. There will be some down lighting which are LED and for initial entry for safety only no flashing lights.

Todd Kays presented the staff report which highlighted the beginning of the construction being Fall 2018 and completion being end of 2019. This project meets minimum lots requirement and setbacks are exceeded. Grant County has issued other conditional uses for this type of facility in the recent past and is authorized to do so. A clarification of signage size was stated at 2x3 and posted on the fence.

Chair Johnson opens the public hearing by asking the proponents for their testimony. Amber Christenson asked Kays how long a CUP is good for and it was answered that the applicant has 2 years to complete construction and once completed CUP is perpetual until us ceases. Kevin Owen asked why the substation was being built and Preston answered that it was for the injection of wind energy. Chair Johnson called for those opposed to the conditional uer permit to address the board with no one reporting.

Chair Johnson called for Kays to make a summation of the Motion to approve the CUP for the 22x48 enclosure and the switch station within a fenced in area as presented and called for any further discussion of the permit.

Leddy asked if this would be primarily for the wind farm from the South- yes and if the 40 acres that was purchased would all be used for this permit and that was answered that a bit under ½ would be used and it was for a line to go in and out as interconnection. Mach asked if gravel would be the standard or if there would be an upgrade to pavement and that was answered it would be placed back to the documented status

quo without an upgrade. Adler asked if the future wind farm was not built if there would be a need to the substation and this was answered no, but there is an agreement with the wind farm to construct the substation for this interconnection. Kays points out that this is a later construction time frame after PUC permits and if it not completed in the 2 year time frame then the CUP is revoked.

Kays reads the Findings of Fact for initial agreement by the board. On June 8, 2018 Ottertail Power applied for a conditional use permit to operate a Public Utility/Service Structure on the property legally described as NE ¼ NE ¼ Section 14-120-52 of the 5th p.m. in Grant County, South Dakota. The following use is listed in the A – Agricultural District of the Grant County Zoning Ordinance: Public Utility/Service Structure. There were no other issues brought up with the application or during testimony which relate to the Zoning Ordinance or Land Use Plan that the Board felt needed to be addressed. The application and testimony at the meeting allowed the Board to adequately review and determine that satisfactory arrangements have been made that meet the Standard Findings of Fact for Conditional Uses and Variances adopted by the Board of Adjustment on February 12, 2018. The Board of Adjustment is empowered to issue this permit. The applicant, along with information available to the Board through the zoning office, has provided information regarding this request. The Board has determined whether the information to be sufficient to warrant issuing the permit. Staff has suggested conditions to ensure the requirements of the zoning ordinance are met. On July 10, 2018 the Conditional Use Permit request was approved by a vote of 7 yes and 0 no. (Ref: SDCL 11-2-59).

7. Adjourn as the Grant County Board of Adjustment Motion by Pillatzki second by Mack carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County



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Minutes for the meeting of Grant County Planning Commission

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Members absent:

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Agenda for the meeting of Grant County Planning Commission/Board of Adjustment.

Meeting Date: **July 10, 2018** **Meeting Time: 4:00 P.M.** **Court House Court Room**

1. **Call Meeting of the Planning Commission to Order** at 4:25 pm by Chair Johnson
2. Items to be added to agenda by Board Members or Staff- none
3. Invitation to address the Planning Commission
4. Approval of Agenda Motion by Hansen second by Spartz carries 7-0.
5. Approval of Minutes:
 - a. Monday, June 11, 2108 Motion by Mach second by Adler carries 7-0.
6. Plats
 - a. Gerald Bury Revocable Living Trust & Nichole Bury Revocable Living Trust, owners of SW1/4 of Section 23, Township 120 North, Range 48 West of the 5th P.M., Grant County, South Dakota request the plat of Lot 1 of Jerry and Nichole Bury Addition. (Alban Township) Motion by Pillatzki second by Leddy carries 7-0.
7. Planning Commission work session on Grant County Wind Energy System Zoning Regulations. (This is not a public forum. Discussion during the work session will be restricted to the Planning Commission and its facilitator).

Topics for discussion presented by Todd Kays who again began the presentation by asking the Planning Commission if they wished to zone out wind and they replied no. And then he followed up by restating that they would be continuing the regulation review and the board answered yes. Kays then provided a recap of the process thus far and the question of where the setback comes from for structures and from participating and non-participating. He also reiterated that 4/6 members generally accepted the current setbacks but would like to see other models with GIS showing property and location.

The first model is for existing 1000-foot setback from residences based on the 2017 drive through the county locating CAFO and residences at that time. Yellow shows municipalities, Blue is lakes, green represents those areas of the county (83%) which are further than 1,000 feet of a residence. Red denotes the 17% of the rural area of the county that is within 1,000 feet of a residence. is unencumbered land which shows an 83% availability and red is 17% available.

Model 2 utilizes 1-mile setback from residences and municipalities which results in only 4% of the rural area of the county outside of the proposed setbacks. When using a combination of completely outside of setback and within 1 mile of a single residence - 14% of the rural area may be available with neighbor signoff. Spartz asked about the 10% difference and Kays pointed out that this meant there was 1 residential landowner within mile. Pillatzki stated that this base assumption meant there was a landowner in the house and they would still need a mile. Kays pointed out this was a base point and a place to start. Muller reiterates that for the purpose of the forum what are the bookends or parameters. Kays restated that 1,000 foot and 1 mile setbacks actually measured the sized of the window and how far it was open in Grant County.

Model 3 is the 1500 ft model that others in the area have adopted lately. This shows 64% of the rural area outside of the setback from residences.

Model 4 is ½ mile with 1 mile to communities resulting in 32% of the rural area of the county unencumbered by setbacks. Pillatzki questioned the legitimacy of the map as a graph and matrix and wanted to know how it would be right that someone has the right to affect the property of a neighbor. Kays pointed out that what he does also affects the neighbor's property rights and the model shows that happens about 36% of the time as well. He is trying to establish the floor. Then he asks the board if anyone is interested in decreasing the setback below 1000 ft and all answered no. Kays then points out that the favored setback is a mile and provides just under 95% buildability.

Pillatzki states there is a pattern for participant and non-participant but it doesn't give the whole picture what if 5-7 landowners get together and give each other waivers then the color does not drive the mapping by participants and it isn't accurate. Spartz noted that the approvals of a group that signs off would allow for a permit. Johnson states that we still need to provide guidelines for businesses to permit under and they can variance on the sideyard or setback or throw it out based upon that information but you have to start somewhere. Pillatzki states that this is nothing more than an illusion but a developer could solicit 10-15 sections and create a windfarm with any rules. Kays again states that the goal needs to be set for developers and they must know how big the circle is and any other way of doing the permit process would not be legally enforceable.

Leddy states that ignoring the landowners that don't live there is wrong. That number of sites should have equal property rights and should not be made ineligible with new rules. They could own multiple quarters and should be allowed to use the property in the manner they wish as well as anyone else. Property rights go both ways.

Kays redirected the board with acknowledging the 1000 ft setback that is current. The best available analysis is being used at 1 mile and we can assume everyone can sign up. Pillatzki then asked for a physical perspective of what people are talking about. He wants to stand on site and know the feeling and formalize a real world review and 1 mile, ½ mile and so on. How big are the towers in our area? Roger Solum states there are no 500 ft towers in SD, South Shore's weather tower is 1000ft states someone from the audience and Atyeo-Gortmaker states that some of the towers in Grant County are in the 400 ft range.

Leddy states we need to be careful not to favor one group and create a mistaking of property rights from 1000's by going to a mile. Property owners that don't live here would perceive an excessive distance as a taking. The towers have grown and that is ok maybe 100 feet isn't right but 1500 feet should be reasonable. Leddy himself has 2 high voltage power lines at his property and there are people that look at a power plant and the size of the towers has changed. This is no reason to overblow the issues such as hearing a jet overhead and being mad at the flight pattern. We need to look at the impact of the acres from status quo. Pillatzki points out that he has property rights as a non-participant too. Spartz states that the building of these towners should be up to the person to move closer and they need to be compensated.

Kays asked if there should be a balance for the regulations for 50/50 building area in Grant County and the rights can be bought if the neighbor signs off for a payment. Kays then reminded the Board that a majority of them stated that they were not in favor of zoning out the turbines. Kays then directed the board to make a decision for 1 mile versus ½ mile setbacks. 4/7 were interested in keeping the 1000ft setback with 500 ft tower. 6/7 are interested in going to 1500 ft setback. 5/7 Board members are not interested in more than 1700-1800 feet where the balance would be close to 50/50 red to green on the models.

Luke Muller acknowledged some of the common concerns were noise and nuisance versus safety and setback and flicker. Kays sums up what was heard from the board at this time: objections are based upon visual encroachment and a tour will be planned for the board to collect information. This meeting will be noticed in the paper and open to attendance at the site and location for a specific date and time in August. There is a 2D presupposition that may not have 100% opt-in but he will put on paper the 1500 1700 and 2000 ft setbacks. To Pillatzki's request for a tour- Kays answered that he would contact communities in our area to get permission and set up distances to look and listen for the

board for next month. Adler stated he has parked under them and had conversations even though he himself is hard of hearing, he thought it was fine.

Kays summed up the meeting with a synopsis of future discussions for the board regarding noise, flicker and the options, lighting but also pointed out the FAA is really in charge of that type of regulation but the board could make an ask for a preference to aircraft detection lighting and even the PUC may not have that jurisdiction yet and decommissioning. The 2D aspect would be the best available form of presentation just like in the CAFO study. In August a refinement to setback September would be rules and October adoption and this may shift a month later if necessary. The schedules and dates and access would be coordinated between Krista and Todd for the tour with others able to drive to the location on their own.

- a. Setback Analysis- different analysis was requested.
- b. Flicker & Noise Discussion etc will be addressed after the setback discussion is concluded.
8. Open address to Planning Commission. The Board Chair called the requestor Kevin Owen who declined the address as all of his questions had been answered.
9. Matters for Board Discussion/Staff Report- none
10. Next meetings:
 - a. Regular meeting: **Monday, August 13, 2018** at 4 PM- subject to change
11. Executive Session (if necessary)-none
 1. Adjourn as the Grant County Planning Commission Motion by Leddy second by Spartz carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County